

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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SANDI GEANNARIS,

Plaintiff,

v.

AMERICAN FAMILY MUTUAL  
INSURANCE COMPANY,

Defendant.

2:10-cv-0877-LRH-lrl

ORDER

Before the court is plaintiff Sandi Geannaris's ("Geannaris") motion to remand filed on June 23, 2010. Doc. #5.<sup>1</sup> Defendant American Family Mutual Insurance Company ("American") did not file an opposition to the motion.

**I. Facts and Procedural History**

On January 27, 2009, Geannaris was involved in an automobile accident that resulted in injuries requiring medical treatment. Geannaris was insured by American and had a \$25,000 policy limit for medical expenses. American allegedly denied Geannaris coverage of her medical expenses.

Subsequently, on May 6, 2010, Geannaris filed a complaint in the Eight Judicial District Court for the District of Nevada against American for breach of contract and bad faith. Doc. #1,

<sup>1</sup> Refers to the court's docket entry number.

1 Exhibit 2. American removed the action to federal court on the basis of diversity jurisdiction.  
2 Doc. #1. Thereafter, Geannaris filed the present motion to remand arguing that the amount in  
3 controversy has not been met. Doc. #5.

## 4 **II. Legal Standard**

5 Under 28 U.S.C. § 1441, “any civil action brought in a State court of which the district  
6 courts of the United States have original jurisdiction, may be removed by the defendant or the  
7 defendants, to the district court of the United States for the district and division embracing the  
8 place where such action is pending.” 28 U.S.C. § 1441(a). A district court has original jurisdiction  
9 over civil actions where the suit is between citizens of different states and the amount in  
10 controversy, exclusive of interest and costs, exceeds \$75,000.00. 28 U.S.C. § 1332(a). In a diversity  
11 case, if a complaint does not specify the amount of damages, “the removing defendant bears the  
12 burden of establishing, by a preponderance of the evidence, that the amount in controversy exceeds  
13 \$[75],000.00.” *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir. 1996).

14 Removal of a case to a district court may be challenged by motion. 28 U.S.C. § 1441(c). A  
15 federal court must remand a matter if there is a lack of jurisdiction. *Id.* Removal statutes are  
16 construed restrictively and in favor of remanding a case to state court. *See Shamrock Oil & Gas*  
17 *Corp. v. Sheets*, 313 U.S. 100, 108-09 (1941); *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir.  
18 1992).

## 19 **III. Discussion**

20 Geannaris concedes that the parties are diverse for diversity jurisdiction, but argues that  
21 American’s notice of removal is insufficient to prove, by a preponderance of the evidence, that the  
22 amount in controversy exceeds \$75,000.00. Geannaris’s complaint only requests damages in excess  
23 of \$10,000.00 as required under the Nevada Rules of Civil Procedure. Further, Geannaris alleges  
24 that she only had a policy with American for coverage of medical expenses in the amount of  
25 \$25,000. Therefore, the court finds that the amount in controversy has not been met and the  
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1 exercise of diversity jurisdiction is improper.

2       Additionally, the failure of a party to file points and authorities in response to any motion  
3 shall constitute a consent to the granting of that motion. LR 7-2(d). Here, American did not file an  
4 opposition to Geannaris's motion to remand. Accordingly, the court shall grant Geannaris's motion  
5 to remand.

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7       IT IS THEREFORE ORDERED that plaintiff's motion to remand (Doc. #5) is GRANTED.  
8 The present action, 2:10-cv-0877-LRH-LRL, is REMANDED to the Eight Judicial District Court  
9 for the District of Nevada.

10       IT IS SO ORDERED.

11       DATED this 20th day of July, 2010.



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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE